

**United States District Court  
Northern District of Texas  
Dallas Division**

The State of Texas, *et al.*,  
*Plaintiffs,*

v.

Joseph R. Biden, Jr., in his official  
capacity as President of the United  
States, *et al.*,  
*Defendants.*

Civ. Action No. 3:22-cv-00780-M

**UNOPPOSED MOTION FOR LEAVE FOR PLAINTIFFS TO FILE A  
SUPPLEMENTAL COMPLAINT**

Plaintiffs move for leave to file a Supplemental Complaint pursuant to Federal Rule of Civil Procedure 15(d). Counsel for all Defendants do not oppose this motion.

Plaintiffs seek leave to file a Supplemental Complaint to challenge the validity of a substantive rule that the Biden Administration promulgated on April 11, 2023 (the “CAM Enhancements”). *See* Bureau of Population, Refugees, and Migration; Central American Minors Program, 88 Fed. Reg. 21,694 (April 11, 2023). A copy of the proposed Supplemental Complaint is attached to this Motion as an exhibit.

Good cause exists for this Court to grant leave. This is because the CAM Enhancements constitute a subsequent agency action that effectively continues the CAM Program recently reinstituted by the Biden Administration and currently challenged before this Court in the instant case.

Generally, “[a]n amended complaint supersedes the original complaint and renders it of no legal effect.” *King v. Dogan*, 31 F.3d 344, 346 (5th Cir. 1994). The only exception is when “the

amended complaint specifically refers to and adopts or incorporates by reference the earlier pleading.” *Id.* But unlike an amended pleading, a court may allow a party to serve a supplemental pleading when it relates to “any transaction, occurrence, or event that happened after the date of the pleading to be supplemented.” Fed. R. Civ. P. 15(d). Even if a party files a motion to amend, courts will construe that motion as a motion to supplement when it concerns events that occurred after the lawsuit was filed. *See Jones v. Lumpkin*, No. CV 4:21-3638, 2022 WL 2954335, at \*4 (S.D. Tex. July 22, 2022) (citing *Haggard v. Bank of Ozarks Inc.*, 668 F.3d 196, 202 (5th Cir. 2012)).

A supplemental pleading is permitted “[o]n motion and reasonable notice” and “on just terms.” Fed. R. Civ. P. 15(d). Rule 15(a), which governs amended pleadings, provides that leave to amend should be “freely give[n].” Fed. R. Civ. P. 15(a)(2). While the text of Rule 15(d) contains no such language, *see* Fed. R. Civ. P. 15(d); *Burns v. Exxon*, 158 F.3d 336, 343 (5th Cir. 1998), the standard under this rule is similar. *Lewis v. Knutson*, 699 F.2d 230, 239 (5th Cir. 1983) (citing 6 C. Wright & A. Miller, *Federal Practice and Procedure* § 1504 (1971)). There are five factors that aid in the exercise of this discretion: (1) undue delay; (2) bad faith or dilatory motive; (3) repeated failure to cure deficiencies by previous amendments; (4) undue prejudice to the opposing party; and (5) futility of the amendment. *Smith v. EMC Corp.*, 393 F.3d 590, 595 (5th Cir. 2004).

Here, Plaintiffs seek leave to file the Supplemental Complaint because the CAM Enhancements constitute a subsequent “transaction, occurrence, or event that happened after the date” of Plaintiffs’ Amended Complaint. *See* Fed. R. Civ. P. 15(d). A supplemental complaint, unlike an amended one, does not supersede the earlier operative pleading.

Indeed, allowing Plaintiffs to file the Supplemental Complaint will not implicate any of the discretionary concerns that counsel against granting such leave. The Supplemental Complaint will

not cause undue delay and is not futile because it addresses nearly identical legal and factual issues as the reinstituted CAM Program. It also does not implicate a bad faith or dilatory motive, a repeated failure to cure deficiencies by previous amendments, or undue prejudice on the part of Plaintiffs because it is in direct response to the Biden Administration's recent agency actions that effectively continue the CAM Program and all parties to this action consent to it. Accordingly, none of the five discretionary factors counsel against granting leave in this case.

### CONCLUSION

Plaintiffs respectfully request this court to grant leave to file a Supplemental Complaint, attached to this Motion as an exhibit.

Date: August 23, 2023

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**CERTIFICATE OF CONFERENCE**

I hereby certify that on June 26, 2023, I conferred with all counsel by email, and none were opposed to this motion.

/s/ Ryan D. Walters  
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**CERTIFICATE OF SERVICE**

I certify that a true and accurate copy of the foregoing document was filed electronically (via CM/ECF) on August 23, 2023, and that all counsel of record were served by CM/ECF.

/s/ Ryan D. Walters  
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